

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

THRYV, INC.,	§	
	§	
<i>Plaintiff and Counterclaim</i>	§	
<i>Defendant,</i>	§	
	§	
v.	§	Civil Action No. 3:20-CV-02756-X
	§	
LISTING CENTRAL, LLC, and	§	
NICOLE NIXON,	§	
	§	
<i>Defendants and</i>	§	
<i>Counterclaimants.</i>	§	

ORDER

Defendants' notice of removal [Doc. No. 1] appears to predicate subject matter jurisdiction upon diversity of citizenship, 28 U.S.C. § 1332, but fails to allege properly the citizenship of the parties for the following reasons:

- ☐ Failure to allege individual's citizenship as opposed to state of residency.¹
- ☐ Failure to allege corporation's state of incorporation.²
- ☐ Failure to allege corporation's principal place of business.³
- ☒ Failure to allege citizenship of all members of limited liability company.⁴

¹ See *Realty Holding Co. v. Donaldson*, 268 U.S. 398, 399 (1925) (allegations of residency, rather than of citizenship, are inadequate to invoke court's jurisdiction).

² See *Ill. Cent. Gulf R.R. Co. v. Pargas, Inc.*, 706 F.2d 633, 637 (5th Cir. 1983) (holding that "a complaint properly asserting diversity jurisdiction must state both the state of incorporation *and* the principal place of business of each corporate party.").

³ *Id.*

⁴ See *Harvey v. Grey Wolf Drilling Co.*, 542 F.3d 1077, 1080 (5th Cir. 2008) ("All federal appellate courts that have addressed the issue have reached the same conclusion: like limited partnerships and other unincorporated associations or entities, the citizenship of a LLC is determined

- ☐ Failure to allege citizenship of all limited partners of a limited partnership.⁵
- ☐ Failure to identify and plead citizenship of each trustee of a trust.⁶
- ☐ Failure to plead the state in which a national bank's main office is located.⁷
- ☐ Failure to plead the citizenship of each of an unincorporated insurance association's underwriters.⁸
- ☐ Failure to distinctly and affirmatively allege the citizenship of each party.⁹
- ☐ Failure to allege that the amount in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs.¹⁰

Until defendants properly allege the parties' citizenships, this Court is not shown to have subject matter jurisdiction.¹¹ In particular, defendants explained that Listing Central, LLC is organized under the laws of Virginia and has its principle place of business in Virginia, but did not allege the citizenship of the LLC's members.

Defendants' efforts do not suffice to afford this Court subject matter

by the citizenship of all of its members."); *see also Rolling Greens MHP, L.P. v. Comcast SCH Holdings L.L.C.*, 374 F.3d 1020, 1022 (11th Cir. 2004) (per curiam) ("To sufficiently allege the citizenships of these unincorporated business entities, a party must list the citizenships of all the members of the limited liability company[.]").

⁵ *See Carden v. Arkoma Assocs.*, 494 U.S. 185, 195–96 (1990).

⁶ *See Navarro Sav. Ass'n v. Lee*, 446 U.S. 458, 464–65 (1980) (the citizenship of a trust is based on each trustee who is a real party in interest).

⁷ *See* 28 U.S.C. § 1348; *see also Wachovia Bank v. Schmidt*, 546 U.S. 303, 307 (2006) ("[A] national bank, for § 1348 purposes, is a citizen of the State in which its main office, as set forth in its articles of association, is located.").

⁸ *See Royal Ins. Co. of Am. V. Quinn-L Capital Corp.*, 3 F.3d 877, 882 (5th Cir. 1993).

⁹ *Getty Oil Corp., Div. of Texaco, Inc. v. Ins. Co. of N. Am.*, 841 F.2d 1254, 1259 (5th Cir. 1988) (holding that allegation that defendant was not citizen of particular states did not establish citizenship for diversity purposes).

¹⁰ *See* 28 U.S.C. § 1332.

¹¹ *See Am. Motorists Ins. Co. v. Am. Emp'rs' Ins. Co.*, 600 F.2d 15, 16 (5th Cir. 1979) (per curiam).

jurisdiction. Accordingly, no later than 21 days from the date of this order, defendants must file an amended notice of removal that alleges diversity of citizenship, in conformity of 28 U.S.C. § 1332; otherwise, this action will be dismissed without prejudice for want of subject matter jurisdiction.

IT IS SO ORDERED this 4th of September 2020.

A handwritten signature in black ink, appearing to read "Brantley Starr", is written over a horizontal line.

BRANTLEY STARR
UNITED STATES DISTRICT JUDGE